

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

|                          |   |                                    |
|--------------------------|---|------------------------------------|
| Robert Leesean Williams, | ) | Civil Action No. 2:18-cv-01237-JMC |
|                          | ) |                                    |
| Petitioner,              | ) |                                    |
|                          | ) |                                    |
| v.                       | ) | <b>ORDER AND OPINION</b>           |
|                          | ) |                                    |
| H. Joyner, Warden,       | ) |                                    |
|                          | ) |                                    |
| Respondent.              | ) |                                    |
| _____                    | ) |                                    |

Petitioner, proceeding *pro se*, filed a Petition for Writ of *Habeas Corpus*, pursuant to 28 U.S.C. § 2241, alleging he is innocent and that the criminal statute under which he was convicted, 18 U.S.C. § 2252A, violates the First, Fourth, Fifth and Sixth Amendments of the United States Constitution. (ECF No. 1.) This matter is before the court for review of the Magistrate Judge’s Report and Recommendation (“Report”) filed on August 3, 2019. (ECF No. 10.) The Magistrate Judge recommends dismissing Petitioner’s request for relief because Petitioner failed to seek relief through a § 2255 motion in the Northern District of Florida (the “Sentencing Court”). (ECF No. 10.) For the reasons stated herein, the court **ACCEPTS** the Magistrate Judge’s Report (ECF No. 10) and **DISMISSES** Petitioner’s Petition for Writ of *Habeas Corpus* (ECF No. 1).

**I. FACTUAL AND PROCEDURAL BACKGROUND**

Petitioner was convicted and is currently serving a 235-month sentence for distribution and receipt of child pornography. (ECF No. 1 at 2-3.) In 2016, Petitioner appealed to the United States Court of Appeals for the Eleventh Circuit, but the court affirmed his conviction and sentence. (ECF No. 1 at 3-4.) After two years, Petitioner filed the present petition with the court, arguing that his

conviction and sentence are not valid. (ECF No.1 at 8-10.) Petitioner acknowledges that he has *not* previously filed a § 2255 motion in the Sentencing Court. (ECF No. 1 at 5.)

## **II. STANDARD OF REVIEW**

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made. *Diamond v. Colonial Life and Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). In the absence of specific objections to the Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond*, 416 F.3d at 315 (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *See Thomas v. Arn*, 474 U.S. 140 (1985). Thus, the court may accept, reject, modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

## **III. DISCUSSION**

The parties were advised of their right to file specific objections to the Report within fourteen (14) days of the date of service. (ECF No. 10 at 11.) Objections to the Report were due

August 17, 2018. If a party was served by mail or otherwise if allowed under Fed. R. Civ. P. 6, objections were due August 20, 2018. Neither party filed objections to the Report.

In the absence of objections to the Report, this court is not required to provide an explanation for adopting the recommendation. Nevertheless, the court finds no clear error in the Magistrate Judge's Report. Petitioner did not file a § 2255 motion with the Sentencing Court within a reasonable period. Petitioner acknowledges his failure to seek timely relief from the sentencing court, and § 2255(e) expressly prohibits § 2241 petitions from being "entertained" if petitioner fails to seek relief from the court in which they were sentenced. 28 U.S.C. § 2255(e)

#### IV. CONCLUSION

After a thorough review of the Report and Recommendation, the court finds the Report and Recommendation provides an accurate summary of the facts and law and does not contain clear error. Therefore, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 10) and **DISMISSES** Petitioner Robert Leesean Williams' Writ for *Habeas Corpus* (ECF No. 1) without prejudice and does not issue a certificate of appealability.

**IT IS SO ORDERED.**

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

February 10, 2020  
Columbia, South Carolina